

**REMARKS**

The Office Action mailed October 2, 2007 has been carefully considered. Within the Office Action Claims 1, 3-9, 12-20, 22, 23, 26-33 and 37-39 have been rejected. The Applicants have amended Claims 1, 9, 12, 16, 22, 23, 30, 31, 37 and 38 and have cancelled claims 28, 29, 32 and 33. The Applicants have added new Claims 40-42. Reconsideration in view of the above amendments and following remarks is respectfully requested.

**Judicially-Created Double Patenting**

Within the office action, Claims 1,3-9, 12-20, 22, 23, 26-33, 37-39 were rejected for allegedly being unpatentable under the non-statutory obviousness type double patent rejection of U.S. Patent No. 6,184,868.

Applicants would like to point out that a terminal disclaimer was filed with the prior response dated September 4, 2007 in which the terminal disclaimer obviated the present application over U.S. Patent No. 6,697,043 (the '043 Patent). The '043 Patent was inserted into the Examiner's office action as the reference used to make the Double Patenting rejection (See Office Action mailed May 9, 2007; Page 3, Paragraph 4, Line 6). As a result, Applicants relied on the cited '043 Patent and inadvertently filed the terminal disclaimer to obviate over the '043 Patent. Due to this inadvertent error, Applicants hereby rescind the terminal disclaimer filed September 4, 2007 obviating over the '043 Patent and provide a corrected terminal disclaimer obviating the present application over Applicant's U.S. Patent No. 6,184,868. Confirmation of this action and rescission of the terminal disclaimer over the '043 Patent is respectfully requested.

**Rejection under 35 U.S.C. § 103**

Within the office action Claims 1, 3-9, 12-20, 22, 23, 26-33 and 37-39 stand rejected under 35 U.S.C. as being allegedly unpatentable over Menahem, U.S. Patent No. 5,142,931 (hereinafter “Menahem”) in view of Salcudean et al. U.S. Patent No. 5,790,108 (hereinafter “Salcudean”). The Applicants respectfully traverse.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. In re Vaeck, 947 F.2d 488 (Fed. Cir. 1991).

In determining obviousness four factual inquiries must be looked into in regards to determining obviousness. These are determining the scope and content of the prior art; ascertaining the differences between the prior art and the claims in issue; resolving the level of ordinary skill in the pertinent art; and evaluating evidence of secondary consideration. Graham v. John Deere, 383 U.S. 1 (1966); KSR Int’l Co. v. Teleflex, Inc., No 04-1350 (U.S. Apr. 30, 2007) (“ Often, it will be necessary . . . to look into related teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an **apparent reason** to combine the known elements in the fashion claimed by the patent at issue. To facilitate review, this analysis **should be made explicit.**”) (emphasis added).

In particular to Claims 1 and 37, neither Menahem nor Salcudean disclose that the fixed portion of the housing is moveable in a three dimensions and that a sensor measures positional

values of the fixed portion when it is moved in the three dimensions. Under the Graham factors, the scope and content of the Menahem device is centered around the joystick being able to pivot about point 14 in Figure 1. However, the handle grip in Menahem does not move in three dimensions related to ground. This is explicitly clear in how the shafts and the linkage mechanism are configured. In addition, Salcudean describes a user device which moves in a horizontally planar motion. Although Menahem and Salcudean mention a moveable button, neither reference teaches or suggests a sensor which measures positional values of the fixed portion of the housing as it is moved in three dimensions. Accordingly, the combination of Menahem with Salcudean does not teach or suggest each and every element/limitation recited in Claims 1 and 37. For at least these reasons, Claims 1 and 37 are allowable over the cited references.

With respect to Claim 12, for at least the same reasons stated above, one skilled in the art combining Menahem with Salcudean would not be able to reach each and every element/limitation in Claim 12. In particular, the combination of Menahem with Salcudean would not provide for a housing adapted to be engaged to an arm of a linkage mechanism located externally to the housing about a single pivot point, the linkage mechanism allowing the housing to move in three dimensions relative to ground. Additionally, the combination would not teach or suggest a first sensor configured to measure positional values of the housing when the housing is moved in any of the three dimensions as well as a second sensor configured to detect a displacement of the button along the degree of freedom when depressed. Thus, the combination of prior art references do not teach or suggest each and every element/limitation in Claim 12. For at least these reasons, Claim 12 is allowable over the cited references.

Claims 3-9, 30, and 38 are dependent on Independent Claim 1, which is allowable for at least the reasons stated above. Additionally, Claims 13-20, 22, 23, 26, 27, 31, and 39 are

dependent on Independent Claim 12, which is allowable for at least the reasons stated above.

Accordingly, Claims 3-9, 13-20, 22, 23, 26, 27, 30, 31, 38 and 39 are allowable for being dependent on allowable base claims.

New Claims

The Applicants have added new Claims 40-42 to the present application. The Applicants believe that the new claims are fully supported by the specification and no new matter has been added. Allowance of new Claims 40-42 is respectfully requested.

Conclusion

It is believed that this Reply places the above-identified patent application into condition for allowance. Early favorable consideration of this Reply is earnestly solicited. If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-1698.

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Respectfully submitted,

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